

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
BILLINGS DIVISION

FILED
JAN 09 2015
Clerk, U.S. District Court
District Of Montana
Missoula

UNITED STATES OF AMERICA,

Plaintiff/Respondent,

vs.

LASHAWN JERMAINE JOHNSON,

Defendant/Movant.

Cause No. CR 06-79-BLG-DLC
CV 13-92-BLG-DLC

ORDER GRANTING § 2255 MOTION

Following the Court's Order of December 1, 2014, and the United States' respectable concession of January 9, 2015,

IT IS HEREBY ORDERED as follows:

1. Johnson's motion to vacate, set aside, or correct the sentence under 28 U.S.C. § 2255 (Doc. 166) is GRANTED as the *Brady/Giglio* claim and DENIED as to all other claims.
2. Because Johnson's claim that 21 U.S.C. §§ 841 and 846 are invalid under the Tenth Amendment is frivolous, *see* Order of May 22, 2014 (Doc. 185) at 7-8, and because all of Johnson's other claims are mooted by the granting of a new trial on the *Brady/Giglio* claim, a certificate of appealability is DENIED as to all claims decided against Johnson.
3. The Amended Judgment entered on February 2, 2010 (Doc. 118), and

reduced on February 13, 2012 (Doc. 141), is VACATED.

4. Johnson's motion to reduce the sentence under 18 U.S.C. § 3582(c)(2) and Amendments 782 and 788 to the United States Sentencing Guidelines (Doc. 191) is DISMISSED AS MOOT.

5. The Clerk of Court shall terminate all pending motions in this matter and shall close the civil file by entering judgment, by separate document, in favor of Johnson and against the United States on the *Brady/Giglio* claim and in favor of the United States and against Johnson on all other claims.

6. The United States Marshals Service shall transport Lashawn Jermaine Johnson, BOP # 41481-048, to the District of Montana as expeditiously as possible. The Marshals shall notify chambers when Johnson is available in the District of Montana.

7. When Johnson arrives in Montana, a new trial will be set by separate Order.

DATED this 9th day of January, 2015.



Dana L. Christensen
United States District Court